

CITY AND COUNTY OF SAN FRANCISCO

OFFICE OF THE CITY ATTORNEY



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City Attorney

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RECEIVED

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IAN 02 2001

December 19, 2000

SUPERINTENDENT'S OFFICE

Mr. Brian O'Neill
Superintendent, Golden Gate National Recreation Area
Fort Mason, Building 201
San Francisco, CA 94123

Re: Fort Funston Closures

B. O'Neill
Cy: M. Scott
N. Watchell
R. Weideman
R. Scott

Dear Mr. O'Neill:

We are writing at the request of the San Francisco Board of Supervisors with respect to the permanent closures of portions of Fort Funston, the erection of fences in those areas, and the removal of pavement from the Sunset Trail, which provided access to a portion of Fort Funston to senior citizens and persons with disabilities. The Board of Supervisors recently held a hearing on the closures and subsequently adopted a resolution requesting that we contact you to seek an explanation of how past and proposed closures serve a recreation or park purpose, to inquire how the National Park Service will provide disability access in light of its removal of pavement from the Sunset Trail, and to remind you of the National Park Service's obligation to submit its construction plans to the City for review. (A copy of the Board's resolution (Resolution 971-00) is attached as Attachment 1.

As you know, property at the northern-most bluffs between the beach and the coastal trail that is currently closed to off-trail recreational use (the "1995 closure") and the 12-acre portion of Fort Funston that the GGNRA has decided to close on a year-round basis (the "2000 closure") are part of the land that the City conveyed to the United States in 1975 for inclusion in the GGNRA. The 1975 deed, a copy of which is attached as Attachment 2, specifically requires that the United States shall hold the land "only so long as said real property is used for recreation or park purposes." The land comprising the 1995 and 2000 closures is, or was, heavily-used by City residents and others for varied recreational pursuits.

We hereby request, on behalf of the San Francisco Board of Supervisors, that the GGNRA provide us with a written explanation of how closure of portions of Fort Funston to recreational use, including the 1995 and the 2000 closures, is consistent with the deed restriction obligating the GGNRA to use former City land at Fort Funston for recreation or park purposes.

In connection with the transfer of City-owned property for inclusion in the GGNRA, the City and the United States entered into an agreement dated as of April 29, 1975 (the "Agreement"), a copy of which is attached as Attachment 3. The Agreement requires the GGNRA to consult with the City's Planning Department on all planning matters relating to construction on the transferred lands, and to submit its construction plans to the Department for

Letter to Mr. Brian O'Neill

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any "building, roadway, parking lot or facility, pier, or any structure or substantial alteration of the natural environment of [the transferred lands]." After reviewing the construction plans, the Planning Department must consult with the General Manager of the Recreation and Park Department and the Director of the Department of Public Works, and must then transmit its findings to the Planning Commission. The Planning Commission will review the Planning Department's findings and will convey its agreement, disagreement or suggested modifications to the GGNRA's General Superintendent. The Agreement provides that the General Superintendent will make every effort to accommodate the City's recommendations.

We have consulted with the Planning Department, which reports that it has received no request from the GGNRA to review construction plans related to the 1995 or the 2000 closure. We write to remind the GGRNA of its obligation under the Agreement to submit to the City's Planning Department for review and comment any fencing or other construction plans associated with the closures. .

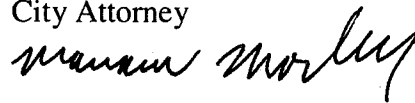
In addition to receiving numerous complaints regarding closures at Fort Funston, members of the Board of Supervisors have been contacted by members of the public protesting the removal of pavement from the Sunset Trail, which was closed in November 1999 and reopened in March, 2000. Organizations such as the Golden Gate Senior Services have complained that a major portion of the trail is no longer paved and is therefore inaccessible to persons with limited mobility. We are writing to request a written response from the GGNRA explaining how this diminution of recreational opportunities is consistent with the GGNRA's responsibilities under the Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794). Please include in your response a description of the GGNRA's plan to make its programs accessible to persons with disabilities, including those with mobility impairments.

We thank you in advance for your cooperation and look forward to receiving your response. Please call if you have questions about any of these requests.

Very truly yours,

LOUISE H. RENNE

City Attorney



MARIAM M. MORLEY

Deputy City Attorney

cc: Members, Board of Supervisors
Gerald Green, Director of Planning

FOFUAR01818

[Urging the National Park Service to provide an explanation of Fort Funston Closures]

Resolution requesting the City Attorney contact the National Park Service reminding the National Park Service of its obligation to submit its construction plans to the City for review, seeking an explanation of how the past and proposed closures serve a recreation or park purpose and inquiring how the National Park Service will provide disability access in light of its removal of a paved path.

WHEREAS, In 1975, the City and County of San Francisco transferred Fort Funston and other City-owned park lands to the federal government to be included in the Golden Gate National Recreation Area (GGNRA), to be administered by the National Park Service (NPS); and

WHEREAS, The statute creating the GGNRA (16 U.S.C. Section 460bb) specifically states that the GGNRA was established to provide for the maintenance of needed recreational open space necessary to the urban environment and planning and requires that the Secretary of the Interior "utilize the resources in a manner which will provide for recreation and educational opportunities consistent with sound principles of land use planning and management;" and

WHEREAS, Former Charter section 7.403-1(a), as approved by the voters, required that the deed transferring any City-owned park lands to the NPS include the restriction that said lands were to be reserved by the Park Service "in perpetuity for recreation or park purposes with a right of reversion upon breach of said restriction;" and

WHEREAS, The deed transferring these City-owned park lands to the NPS contains the following restriction: "to hold only for so long as said real property is reserved and used for recreation and park purposes; and

1 WHEREAS, A contemporaneous agreement ("Agreement") concerning the rights and
2 duties of the parties requires the NPS, among other things, to submit its plans for construction
3 on the park lands or changes in the natural environment of these properties to the City's
4 Planning Department for review and comment in order to ensure that the Department of City
5 Planning will be informed and involved during all stages of the planning process and in
6 particular during the conceptual planning stage where potential conflicts can be resolved prior
7 to the development of specific plans; and

8 WHEREAS, The City Attorney has concluded that the City and County of San
9 Francisco has a right to bring legal action against the NPS in the event the NPS breaches the
10 deed restriction and agreement; and

11 WHEREAS, Since 1991, the NPS has closed heavily-used portions of Fort Funston for
12 the avowed purpose of habitat protection and native plant restoration, thereby precluding any
13 recreational use, without notifying the City and County of San Francisco; and

14 WHEREAS, The NPS now proposes permanent closure of an additional twelve acres
15 of prime recreation space at Fort Funston, without notifying the City and County of San
16 Francisco; now, therefore, be it

17 RESOLVED, That Board of Supervisors of the City and County of San Francisco
18 requests that the City Attorney write to the NPS reminding the NPS of its duty to submit to the
19 San Francisco Planning Department for review, comment, and approval plans for construction
20 at Fort Funston, including plans to install or maintain fencing at Fort Funston which precludes
21 recreational use by park visitors; and, be it

22 FURTHER RESOLVED, That the Board of Supervisors requests the City Attorney to
23 write to the NPS to ask them to provide access to people with disabilities and to explain their
24 plans for resurfacing the previously paved Sunset Trail; and, be it

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1 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
2 Francisco hereby requests the City Attorney write a letter to the NPS requesting the NPS to
3 explain how the closures that have been effected at Fort Funston since 1991, including the
4 proposed twelve-acre closure, comply with the deed restriction requiring that Fort Funston be
5 used only for recreation or park purposes.

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FOFUAR01821

Leland Y. Yee, Ph.D.
BOARD OF SUPERVISORS



City and County of San Francisco

Tails

Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 001928

Date Passed:

Resolution requesting the City Attorney to contact the National Park Service reminding the National Park Service of its obligation to submit its construction plans to the City for review, seeking an explanation of how the past and proposed closures serve a recreation or park purpose and inquiring how the National Park Service will provide disability access in light of its removal of a paved path.

November 6, 2000 Board of Supervisors — ADOPTED

Ayes: 9 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng

Absent: 2 - Yaki, Yee

FOFUAR01822

D E E D

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, the first party, pursuant to Ordinance No. 287-75, adopted by its Board of Supervisors on June 23, 1975, and approved by the Mayor on June 26, 1975, hereby grants without warranty to THE UNITED STATES OF AMERICA, the second party, the following described real property situated in the City and County of San Francisco, State of California:

PARCEL ONE

Beginning at a point on that certain course in the westerly boundary line of that certain 150.29 acre parcel of land which bears North 16° 29' 00" West 2292.58 feet as described in the deed from Spring Valley Company to United States of America, recorded August 7, 1917, in Book 1028, page 119 of Deeds, in the office of the Recorder of the City and County of San Francisco, State of California, distant thereon from the northerly extremity of said course South 16° 29' 00" East 784.670 feet, said point being on the mean high water line of the Pacific Ocean and also being the southwest corner of that certain 115.6105 acre parcel of land quitclaimed to the City and County of San Francisco by the United States of America, recorded May 18, 1962, in Book A-423, Page 314 of official records, in the office of said Recorder; running thence along the southerly and easterly boundary lines of last said Parcel the following courses and distances: North 53° 47' 45" East 971.327 feet; South 87° 12' 15" East 579.730 feet to a point; northerly on an arc of a curve to the right the center of which bears North 64° 12' 04" East from last mentioned point with a radius of 650 feet, a central angle of 28° 38' 41", a distance of 324.964 feet; North 2° 50' 45" East tangent to the preceding curve 130.23 feet to a point; northerly on an arc of a curve to the right the center of which bears North 86° 23' 43" East from last mentioned point with a radius of 1060 feet, a central angle of 1° 11' 25", a distance of 22.02 feet; North 2° 24' 52" West tangent to the preceding curve 481.82 feet; northwesterly on an arc of a curve to the left tangent to the preceding course with a radius of 940 feet, a central angle of 26° 59' 44", a distance of 442.89 feet; North 29° 35' 40" West 321.42 feet; North 35° 56' 50" West 411.204 feet and northwesterly on an arc of a curve to the right tangent to the preceding course with a radius of 1350 feet, a central angle of 17° 34' 48", a distance of 414.219 feet; thence leaving said easterly boundary line of said 115.6105 acre parcel and running North 18° 22' 02" West 122.132 feet; thence northerly on an arc of a curve to the right tangent to the preceding course with a radius of 996.54 feet, a central angle of 17° 39' 45", a distance of 307.202 feet; thence northwesterly on an arc of a reverse curve with a radius of 178 feet, a central angle of 53° 24' 49", a distance of 165.939 feet; thence North 54° 07' 06" West tangent to the preceding curve 562.23 feet; thence northwesterly on an arc of a curve to the right tangent to the preceding

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course with a radius of 1071 feet, a central angle of 48° 00' 00", a distance of 897.24 feet; thence North 6° 07' 06" West tangent to the preceding curve 941.63 feet; thence northwesterly on an arc of a curve to the left tangent to the preceding course with a radius of 1929 feet, a central angle of 5° 10' 29", a distance of 174.22 feet; thence North 11° 17' 35" West tangent to the preceding curve 367.36 feet; thence northeasterly on an arc of a curve to the right tangent to the preceding course with a radius of 871 feet, a central angle of 21° 47' 40", a distance of 331.32 feet; thence North 11° 57' 12" East 493.17 feet to a point; thence northerly on an arc of a curve to the left the center of which bears North 79° 22' 18" West from last mentioned point with a radius of 804.22 feet a central angle of 15° 05' 08", a distance of 211.745 feet; thence North 4° 27' 26" West tangent to the preceding curve 100.07 feet; thence North 85° 32' 34" East 11 feet; thence North 4° 27' 26" West 245.118 feet to a point on the westerly extension of the southerly line of Wawona Street distant thereon 283.403 feet westerly of the easterly line of Great Highway; thence North 4° 27' 26" West 7557.572 feet; thence North 4° 27' 55" West 11.904 feet to a point on westerly extension of the northerly line of Lawton Street distant thereon 276.379 feet westerly of the easterly line of La Playa; thence North 4° 27' 55" West 2525.421 feet; thence northwesterly on an arc of a curve to the left tangent to the preceding course with a radius of 3593.67 feet, a central angle of 1° 51' 03", a distance of 116.09 feet; thence South 83° 41' 02" West 1 foot to a point; thence northeasterly on an arc of a curve to the right the center of which bears North 83° 41' 02" East from last mentioned point with a radius of 270.78 feet, a central angle of 22° 01' 00", a distance of 104.05 feet; thence northerly on an arc of a reverse curve with a radius of 719.68 feet, a central angle of 19° 53' 00", a distance of 249.75 feet; thence North 4° 10' 58" West tangent to the preceding curve 1960.04 feet; thence northeasterly on an arc of a curve to the right tangent to the preceding course with a radius of 153.36 feet, a central angle of 28° 56' 30", a distance of 77.72 feet; thence northerly on an arc of a reverse curve with a radius of 244.93 feet, a central angle of 28° 52' 42", a distance of 123.21 feet; thence North 4° 07' 10" West 2051.58 feet; thence northwesterly on an arc of a curve to the left tangent to the preceding course with a radius of 248.36 feet, a central angle of 41° 55' 00", a distance of 181.70 feet; thence North 46° 02' 10" West tangent to the preceding curve 104.39 feet; thence northwesterly on an arc of a curve to the right tangent to the preceding course with a radius of 397.68 feet, a central angle of 3° 44' 48", a distance of 26.00 feet to a point on a line parallel with and perpendicularly distant 6 feet southerly of the northerly line of Anza Street distant thereon 887.96 feet westerly of the westerly line of 48th Avenue; thence North 34° 31' 13" West 296.69 feet; thence North 52° 48' 55" West 130.164 feet to an existing City monument; thence due West to the mean high water line of the Pacific Ocean; thence southerly along the mean high water line of the Pacific Ocean to the point of beginning.

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Reserving unto the City and County of San Francisco an easement for the construction, installation, maintenance, repair, alteration, replacement, reconstruction and use of sewer and drainage facilities within the following described parcels all within the above described PARCEL ONE:

Parcel A

A strip of land 20 feet in width the center line of which bears South 44° 37' West from the northeasterly corner of the above described Parcel One to the westerly boundary line of said Parcel One.

Parcel B

A strip of land 20 feet in width the center line of which bears North 82° 53' West from a point on the easterly boundary line of the above described Parcel One perpendicularly distant 445 feet northerly of the northerly line of Balboa Street, produced westerly, to the westerly line of said Parcel One.

Parcel C

A strip of land 1,000 feet in width the center line of which being also the center line of Fulton Street produced westerly and running westerly from the easterly boundary line of the above described Parcel One to a line parallel with and perpendicularly distant 450 feet westerly of the westerly line of La Playa.

Parcel D

A strip of land 50 feet in width the center line of which being also the center line of Fulton Street produced westerly and running westerly from the westerly boundary line of above described Parcel C to the westerly line of above described Parcel One.

Parcel E

A strip of land 1800 feet in width the center line of which being also the center line of Lincoln Way produced westerly and running westerly from the easterly boundary line of the above described Parcel One to a line parallel with and perpendicularly distant 400 feet westerly of the westerly line of La Playa.

Parcel F

A strip of land 50 feet in width the center line of which is parallel with and perpendicularly distant 335 feet northerly of the center line of Lincoln Way produced westerly and running westerly from the westerly line of above described Parcel E to the westerly line of above described Parcel One.

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Parcel G

A strip of land 1500 feet in width the center line of which being also the center line of Vicente Street produced westerly and running westerly from the easterly boundary line of the above described Parcel One to a line parallel with and perpendicularly distant 410 feet westerly of the easterly line of the Great Highway.

Parcel H

A strip of land 50 feet in width the center line of which being also the center line of Vicente Street produced westerly and running westerly from the westerly line of above described Parcel G to the westerly line of above described Parcel One.

Parcel I

A strip of land 50 feet in width the center line of which bears North 83° 47' West from a point on the easterly boundary line of the above described Parcel One perpendicularly distant 450 feet southerly of the southerly line of Wawona Street, produced westerly, to the westerly boundary line of said Parcel One.

Parcel J

A strip of land 200 feet in width the center line of which bears South 62° 13' West from a point on the easterly boundary line of the above described Parcel One distant thereon 190 feet northerly from the southerly extremity of that certain course which bears North 6° 07' 06" West, 941.63 feet, to the westerly line of said Parcel One.

Parcel K

A strip of land 50 feet in width the center line of which is parallel with and perpendicularly distant 20 feet southerly of the center line of Lincoln Way produced westerly and running westerly from the westerly line of above described Parcel E to the westerly line of above described Parcel One.

Reserving also unto the City and County of San Francisco an easement along and adjacent to the easterly line of Parcel One for the installation, maintenance, repair, alteration, replacement, reconstruction and use of street lighting facilities.

Reserving also unto the City and County of San Francisco the right to construct subsurface sewer tunnels running in a northerly direction within the southerly portion of above described Parcel One.

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PARCEL TWO

Beginning at the point of intersection of the Southerly line of Geary Boulevard, produced westerly, with the Westerly line of Forty-eighth Avenue; running thence Southerly along said Westerly line of Forty-eighth Avenue 916.92 feet more or less to a point distant thereon 363.08 feet Northerly from the point of intersection of said Westerly line of Forty-eighth Avenue with the Northerly line of Balboa Street; thence deflecting to the right $93^{\circ} 23' 8''$ and running Westerly 310.54 feet to the Westerly line of La Playa at a point distant thereon 381' 5" Northerly from the point of intersection of said Westerly line of La Playa with the Northerly line of Balboa Street; thence deflecting to the right $5^{\circ} 21' 52''$ and running Westerly $143' 4\frac{1}{2}''$, said last course making an angle of $98^{\circ} 45'$ with the aforesaid Westerly line of La Playa; thence deflecting to the right $85^{\circ} 02' 30''$ and running Northerly 197' 1"; thence deflecting to the left 90° and running Westerly 5 feet; thence deflecting to the right 90° and running Northerly 49 feet; thence deflecting to the left 90° and running Westerly $330' 4\frac{3}{16}''$ more or less to the Northeasterly boundary line of the Great Highway, which boundary line is a curve with a radius of 849.32 feet, and a tangent to which curved line at this point of intersection deflects to the right from the last above described course $43^{\circ} 26' 43''$; thence Northwesterly along said Northeasterly line of the Great Highway 128.38 feet more or less on a curve to the left with a radius 849.32 feet to the point of intersection of the said Northeasterly line of the Great Highway with the Northeasterly line of Point Lobos Avenue; thence deflecting to the right $31^{\circ} 28' 22''$ from a tangent to the said Northeasterly line of the Great Highway at its point of intersection with the said Northeasterly line of Point Lobos Avenue; and running Northwesterly along said Northeasterly line of Point Lobos Avenue 249.943 feet more or less to an angle point in said Northeasterly boundary line of Point Lobos Avenue, which angle point is marked by an iron monument set on a line bisecting the angle in Point Lobos Avenue at this point and distant 115 feet Southwesterly, measured at a right angle from said Northeasterly line of Point Lobos Avenue; thence continuing along said Northeasterly line and the Southeasterly and Southerly line of Point Lobos Avenue, deflecting to the left $30^{\circ} 45'$ and running Northwesterly 132.045 feet; thence deflecting to the right 29° and running Northwesterly 261.899 feet; thence deflecting to the right $50^{\circ} 30'$ and running Northeasterly 32.083 feet; thence deflecting to the right $53^{\circ} 15'$ and running Easterly 134.260 feet; thence deflecting to the right 16° and running Easterly 114.588 feet; thence deflecting to the left 16° and running Easterly 199.822 feet; thence deflecting to the left $22^{\circ} 15'$ and running Northeasterly 409.234 feet; thence deflecting to the right $28^{\circ} 45'$ and running Easterly 334.927 feet to the point of intersection of the said Southerly line of Point Lobos Avenue with the Westerly line of Forty-eighth Avenue; thence deflecting to the right, $91^{\circ} 27' 20''$ and running Southerly along said Westerly line of Forty-eighth Avenue 312.360 feet to the point of beginning.

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To hold only so long as said real property is reserved and used for recreation or park purposes and in addition as to Parcel 2, to hold only so long as said herein described Parcel 2 shall be forever held and maintained as a free public resort or park under the name of Sutro Heights, pursuant to the condition contained in the deed of George W. Merritt and Emma L. Merritt recorded May 26, 1920 in Book 109, Page 308 of Deeds.

IN WITNESS WHEREOF, the said first party has executed this conveyance this 17th day of September, 1975.

APPROVED:

Wallace Hartman
Director of Property

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By Joseph L. Alioto
Mayor

FORM APPROVED:

THOMAS M. O'CONNOR, City Attorney

By Danielle Auguste Chouteau
Deputy City Attorney

By Michael J. Maguire
City Clerk of the Board of Supervisors

DESCRIPTION
Checked G. W. 9/4/75

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STATE OF CALIFORNIA }
CITY AND COUNTY OF SAN FRANCISCO } ss.

On the 17th day of September, 1975,

before me, **CARL M. OLSEN**, County Clerk of the City and County of San Francisco, and ex officio Clerk of the Superior Court of the State of California, in and for the City and County of San Francisco, personally appeared Joseph L. Alioto Mayor of the City and County of San Francisco, a municipal corporation, and Margaret G. McGuire Clerk of the Board of Supervisors of the City and County of San Francisco, known to me to be the

Mayor and the Acting Clerk of the Board of Supervisors of the municipal corporation described in and who executed the within instrument and also known to me to be the persons who executed it on behalf of the municipal corporation therein named, and they and each of them acknowledged to me that such municipal corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the City and County of San Francisco, State of California, the day and year in this certificate first above written.

Y22490

BOOK C 68 PAGE 1

Carl M. Olsen

County Clerk of the City and County of San Francisco, State of California and ex officio Clerk of the Superior Court of the State of California, in and for the City and County of San Francisco.

DOCUMENTARY TRANSFER TAX None
IMPOSED ON FULL VALUE OF PROPERTY CONVEYED, OR
ON FULL VALUE LESS LIENS & ENCUMBRANCES
RECORDED AT TIME OF SALE
Robert S. [Signature]
Signature of document or agent determining tax - firm name

RECORDED AT REQUEST OF
TITLE INSURANCE & TRUST CO.
At 2 Min Past 3 P M

SEP 24 1975

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City & County of San Francisco, Calif.

L. J. LEGUENEC

RECORDER

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